

# **EXHIBIT A**

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

MAXIMILIAN KLEIN, et al.,

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

This Document Relates To: All Actions

Consolidated Case No. 5:20-cv-08570-LHK

The Hon. Lucy H. Koh

**CONSUMER PLAINTIFFS' FIRST  
AMENDED INITIAL DISCLOSURES  
PURSUANT TO FED R. CIV. P. 26(a)(1)**

1 Plaintiffs Maximilian Klein, Sarah Grabert, and Rachel Banks Kupcho (“Consumer  
2 Plaintiffs”), by and through counsel, hereby provide the following first amended initial disclosures  
3 pursuant to Rule 26(a) of the Federal Rules of Civil Procedure. These first amended initial  
4 disclosures represent Consumer Plaintiffs’ diligent and best efforts to respond at this time and are  
5 based on Consumer Plaintiffs’ investigation to date, which is continuing. Consumer Plaintiffs  
6 expect that as their investigation, inquiry, research, and discovery proceed in this case, Consumer  
7 Plaintiffs may discover more materials that Consumer Plaintiffs will use to support their claims. As  
8 such, Consumer Plaintiffs reserve the right to further modify, amend, and/or supplement these  
9 disclosures under Rule 26(e)(1) as information becomes available in the course of Consumer  
10 Plaintiffs’ investigation and discovery. Consumer Plaintiffs do not waive any evidentiary objections  
11 based upon relevance, materiality, competence, privilege, immunity from disclosure, trade secret,  
12 or any other grounds. All of the disclosures set forth below are made subject to the above limitations  
13 and qualifications.

14 **I. DISCLOSURE OF WITNESSES – Fed. R. Civ. P. 26(a)(1)(A)(i)**

15 Consumer Plaintiffs provide the following list of witnesses currently known to them who  
16 are likely to have discoverable information that Consumer Plaintiffs will use to support their claims,  
17 which does not include those whose use would be solely for impeachment. Consumer Plaintiffs  
18 reserve their right to call as witnesses any individual identified by Defendant Facebook, Inc.  
19 (“Facebook”) or Advertiser Plaintiffs as trial or expert witnesses.

20 **A. Consumer Plaintiffs**

21 Consumer Plaintiffs may be contacted only through, and deposition notices may be served  
22 only upon, Consumer Plaintiffs’ counsel in this action. The inclusion of the individuals in the list  
23 below should not be construed in any way as waiving any attorney client privilege or work product  
24 information that such individuals may possess.

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No.	Witness Information	Subjects of Information
1.	Maximilian Klein May be contacted through undersigned Counsel for Consumer Plaintiffs	Mr. Klein is likely to have discoverable information regarding the Facebook, Instagram, and WhatsApp account(s) he utilized during the class period and the reasons he signed up for and has used these accounts.
2.	Sarah Grabert May be contacted through undersigned Counsel for Consumer Plaintiffs	Ms. Grabert is likely to have discoverable information regarding the Facebook, Instagram, and WhatsApp account(s) she utilized during the class period and the reasons she signed up for and has used these accounts.
3.	Rachel Banks Kupcho May be contacted through undersigned Counsel for Consumer Plaintiffs	Ms. Banks Kupcho is likely to have discoverable information regarding the Facebook, Instagram, and WhatsApp account(s) she utilized during the class period and the reasons she signed up for and has used these accounts.

## B. Facebook

No.	Witness Information	Subjects of Information
1.	Eric Antonow Former Vice President of Product Marketing	Mr. Antonow is likely to have discoverable information regarding social networks and social media applications; Facebook's data collection and use practices; and/or the representations Facebook made to the public regarding its data collection and use practices.
2.	Mary Berk Product Management (Privacy)	Ms. Berk is likely to have discoverable information regarding Facebook's data collection and use practices and/or the representations Facebook made to the public regarding its data collection and use practices.
3.	Ann Blackwood Former Head of Public Policy, Western States	Ms. Blackwood is likely to have discoverable information regarding Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; and/or Facebook's monetization strategy.

No.	Witness Information	Subjects of Information
4.	Brian Boland Former Vice President for Product Marketing, Operations Planning, and Partner Engineering	Mr. Boland is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; and/or Facebook's monetization strategy.
5.	Melinda Claybaugh Privacy Policy Director – Legislation	Ms. Claybaugh is likely to have discoverable information regarding Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; and/or Facebook's monetization strategy.
6.	Nick Clegg Vice President of Global Affairs	Mr. Clegg is likely to have discoverable information regarding social networks and social media applications; Facebook's data collection and use practices; and/or the representations Facebook made to the public regarding its data collection and use practices.
7.	Matt Cohler Former Vice President of Product Management	Mr. Cohler is likely to have discoverable information regarding social networks and social media applications and/or the effects that Facebook's conduct had on competing social networks and social media applications.

No.	Witness Information	Subjects of Information
8.	Chris Cox Chief Product Officer	Mr. Cox is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; Facebook's "Research" and "Study" apps; and/or Facebook's monetization strategy.
9.	Tom Cunningham Economist, Core Data Science	Mr. Cunningham is likely to have discoverable information regarding social networks and social media applications and/or Facebook's use of consumer data to evaluate Facebook's competitive performance.
10.	David Ebersman Former Chief Financial Officer	Mr. Ebersman is likely to have discoverable information regarding the representations Facebook made to the public regarding its data collection and use practices; Facebook's serial acquisition strategy; and/or Facebook's monetization strategy.
11.	Erin Egan Chief Privacy Officer, Policy	Ms. Egan is likely to have discoverable information regarding Facebook's data collection and use practices and/or the representations Facebook made to the public regarding its data collection and use practices.
12.	Joshua Grossnickle Director, Consumer Insights	Mr. Grossnickle is likely to have discoverable information regarding social networks and social media applications; Facebook's data collection and use practices; and/or the representations Facebook made to the public regarding its data collection and use practices.

No.	Witness Information	Subjects of Information
13.	Anil Gupta Former Director of Investor Relations	Mr. Gupta is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; the representations Facebook made to the public regarding its data collection and use practices; and/or Facebook's monetization strategy.
14.	Chris Hughes Former Co-founder	Mr. Hughes is likely to have discoverable information regarding social networks and social media applications; Facebook's data collection and use practices; the effects that Facebook's conduct had on competing social networks and social media applications; and/or Facebook's monetization strategy.
15.	Mike Krieger Former Chief Technology Officer of Instagram	Mr. Krieger is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; and/or Facebook's serial acquisition strategy.
16.	Yul Kwon Former Director of Product Management; Former Deputy Chief Privacy Officer	Mr. Kwon is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; and/or the representations Facebook made to the public regarding its data collection and use practices.
17.	Caryn Marooney Former Vice President of Communications	Ms. Marooney is likely to have discoverable information regarding Facebook's data collection and use practices and/or the representations Facebook made to the public regarding its data collection and use practices.

No.	Witness Information	Subjects of Information
18.	Erez Naveh Lead Product Manager for Research Platform	Mr. Naveh is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; and/or Facebook's "Research" and "Study" apps.
19.	Javier Olivan Vice President of Central Products	Mr. Olivan is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; the effects that Facebook's conduct had on competing social networks and social media applications; and/or Facebook's "Research" and "Study" apps.
20.	Chamath Palihapitiya Former Vice President of User Growth, Mobile & International	Mr. Palihapitiya is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; and/or Facebook's monetization strategy.
21.	Michel Protti Chief Privacy Officer, Product	Mr. Protti is likely to have discoverable information regarding Facebook's data collection and use practices and/or the representations Facebook made to the public regarding its data collection and use practices.

No.	Witness Information	Subjects of Information
22.	Gokul Rajaram Former Product Director, Ads	Mr. Rajaram is likely to have discoverable information regarding Facebook's data collection and use practices and/or Facebook's monetization strategy.
23.	Dan Rose Former Vice President of Partnerships	Mr. Rose is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; and/or the circumstances of the removal of Onavo from Apple's App Store.
24.	Guy Rosen Vice President of Integrity; Onavo Co-founder	Mr. Rosen is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; the effects that Facebook's conduct had on competing social networks and social media applications; and/or Facebook's "Research" and "Study" apps.
25.	Sheryl Sandberg Chief Operating Officer	Ms. Sandberg is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; the effects that Facebook's conduct had on competing social networks and social media applications; Facebook's "Research" and "Study" apps; and/or Facebook's monetization strategy.

No.	Witness Information	Subjects of Information
26.	Elliot Schrage Vice President of Global Communications, Marketing, & Public Policy	Mr. Schrage is likely to have discoverable information regarding social networks and social media applications; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; and/or the effects that Facebook's conduct had on competing social networks and social media applications.
27.	Mike Schroepfer Chief Technology Officer	Mr. Schroepfer is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; and/or Facebook's "Research" and "Study" apps.
28.	Matt Scutari Director, Privacy and Data Policy	Mr. Scutari is likely to have discoverable information regarding Facebook's data collection and use practices and/or the representations Facebook made to the public regarding its data collection and use practices.
29.	Fidji Simo Head of Facebook App	Ms. Simo is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; the effects that Facebook's conduct had on competing social networks and social media applications; and/or Facebook's "Research" and "Study" apps.

No.	Witness Information	Subjects of Information
30.	Brad Smallwood Vice President of Measurement and Insights	Mr. Smallwood is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; and/or Facebook's "Research" and "Study" apps.
31.	Alex Stamos Former Chief Security Officer	Mr. Stamos is likely to have discoverable information regarding Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; Facebook's use of consumer data to evaluate Facebook's competitive performance; and/or Facebook's serial acquisition strategy.
32.	Kevin Systrom Former Chief Executive Officer of Instagram	Mr. Systrom is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; and/or the effects that Facebook's conduct had on competing social networks and social media applications.
33.	Roi Tiger Director of Engineering; Onavo Co-founder	Mr. Tiger is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; the effects that Facebook's conduct had on competing social networks and social media applications; and/or Facebook's "Research" and "Study" apps.

No.	Witness Information	Subjects of Information
34.	Mike Vernal Former Vice President, Product & Engineering	Mr. Vernal is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; and/or Facebook's "Research" and "Study" apps.
35.	David Wehner Chief Financial Officer	Mr. Wehner is likely to have discoverable information regarding Facebook's monetization strategy; Facebook's "Research" and "Study" apps; the representations Facebook made to the public regarding its data collection and use practices; and/or Facebook's monetization strategy.
36.	Amin Zoufonoun Vice President of Corporate Development	Mr. Zoufonoun is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; and/or Facebook's monetization strategy.
37.	Mark Zuckerberg Chairman, Chief Executive Officer, Founder	Mr. Zuckerberg is likely to have discoverable information regarding social networks and social media applications; Facebook's use of consumer data to evaluate Facebook's competitive performance; Facebook's serial acquisition strategy; Facebook's data collection and use practices; the representations Facebook made to the public regarding its data collection and use practices; the effects that Facebook's conduct had on competing social networks and social media applications; Facebook's "Research" and "Study" apps; and/or Facebook's monetization strategy.

In addition to the above-listed individuals, Consumer Plaintiffs reserve the right to rely upon the testimony of additional witnesses as may be identified in the course of further discovery and investigation, including but not limited to persons disclosed by Facebook or Advertiser Plaintiffs.

### C. Third Parties

No.	Witness Information	Subjects of Information
1.	Current or former principals, founders, directors, officers, employees, and/or agents of Myspace LLC.	Myspace representatives are likely to have discoverable information relating to social networks and social media applications and/or the effects that Facebook's conduct had on competing social networks and social media applications.
2.	Current or former principals, founders, directors, officers, employees, and/or agents of Orkut (Google LLC).	Orkut representatives are likely to have discoverable information relating to social networks and social media applications and/or the effects that Facebook's conduct had on competing social networks and social media applications.
3.	Current or former principals, founders, directors, officers, employees, and/or agents of Google+ (Google LLC).	Google+ representatives are likely to have discoverable information relating to social networks and social media applications and/or the effects that Facebook's conduct had on competing social networks and social media applications.
4.	Current or former principals, founders, directors, officers, employees, and/or agents of Bebo, Inc.	Bebo representatives are likely to have discoverable information relating to social networks and social media applications and/or the effects that Facebook's conduct had on competing social networks and social media applications.
5.	Current or former principals, founders, directors, officers, employees, and/or agents of Friendster, Inc.	Friendster representatives are likely to have discoverable information relating to social networks and/or social media applications and the effects that Facebook's conduct had on competing social networks and social media applications.
6.	Current or former principals, founders, directors, officers, employees, and/or agents of Snapchat (Snap Inc.).	Snapchat representatives are likely to have discoverable information relating to social networks and social media applications and/or the effects that Facebook's conduct had on competing social networks and social media applications.

No.	Witness Information	Subjects of Information
7.	Current or former principals, founders, directors, officers, employees, and/or agents of Twitter, Inc.	Twitter representatives are likely to have discoverable information relating to social networks and social media applications and/or the effects that Facebook's conduct had on competing social networks and social media applications.
8.	Current or former principals, founders, directors, officers, employees, and/or agents of TikTok (ByteDance Ltd.).	TikTok representatives are likely to have discoverable information relating to social networks and social media applications and/or the effects that Facebook's conduct had on competing social networks and social media applications.
9.	Current or former principals, founders, directors, officers, employees, and/or agents of Google Play Store (Google LLC).	Google Play Store representatives are likely to have discoverable information relating to Facebook's data collection and use practices; the circumstances of the removal of Onavo from the Google Play Store; and/or discussions regarding Facebook's "Research" and "Study" apps.
10.	Current or former principals, founders, directors, officers, employees, and/or agents of Apple Inc.	Apple representatives are likely to have discoverable information relating to Facebook's data collection and use practices; the circumstances of the removal of Onavo from Apple's App Store; and/or discussions regarding Facebook's "Research" and "Study" apps.
11.	Current or former principals, founders, directors, officers, employees, and/or agents of Microsoft Corp.	Microsoft representatives are likely to have discoverable information relating to business models that compensate users with monetary value in exchange for users' data.

## II. DISCLOSURE OF DOCUMENTS – Fed. R. Civ. P. 26(a)(1)(A)(ii)

Consumer Plaintiffs' search for documents that Consumer Plaintiffs may use to support their claims in this action is continuing. To date, Consumer Plaintiffs have identified the following categories of documents and electronically stored information they may use to support their claims:

- Documents relating to Consumer Plaintiffs' Facebook, Instagram, and WhatsApp accounts.

1 Consumer Plaintiffs reserve their right to rely on any documents, electronically stored information,  
 2 and tangible things identified and/or produced by Facebook, Advertiser Plaintiffs, or any third  
 3 parties in this or any related action.

4 **III. DISCLOSURE OF DAMAGES COMPUTATION – Fed. R. Civ. P. 26(a)(1)(A)(iii)**

5 Consumer Plaintiffs seek, on behalf of themselves and the members of the Consumer Class  
 6 (as defined in the Consolidated Consumer Class Action Complaint), the following: an award of  
 7 damages (to be trebled) under 15 U.S.C. § 15 adequate to compensate Consumer Plaintiffs for the  
 8 difference between the reduced value that Facebook provided Consumer Plaintiffs as a result of  
 9 Facebook’s alleged competition-reducing conduct and the value that competition free of Facebook’s  
 10 anticompetitive restraints would have required Facebook to provide Consumer Plaintiffs (including  
 11 adequate compensation for the data that Consumer Plaintiffs provided to Facebook, but which  
 12 Facebook did not provide adequate consideration for in return); prejudgment interest under 15  
 13 U.S.C. § 15; Consumer Plaintiffs’ costs and reasonable attorneys’ fees under 15 U.S.C. § 15; and  
 14 disgorgement of Facebook’s ill-gotten gains stemming from its unjust enrichment.

15 Given the likely number of members of the putative Consumer Class (hundreds of millions),  
 16 likely per-member damages (at least tens to hundreds of dollars each year throughout the class  
 17 period), and the number of years in the class period (2007 to the present), Consumer Plaintiffs  
 18 currently believe that the Consumer Class’s damages are, at least, tens of billions of dollars (prior  
 19 to trebling, and prior to any award including interest, costs, and reasonable attorneys’ fees).<sup>1</sup>  
 20 Consumer Plaintiffs’ estimates and methodologies, which are preliminary and provided in advance  
 21 of fact and expert discovery and analysis, are exemplified by publicly-available documents. These  
 22 public documents include, *inter alia*, Facebook presentations detailing the number of daily and  
 23 monthly active Facebook user accounts; public news reports indicating that Facebook has, itself,  
 24 calculated a market price at which to pay users for their data (*e.g.*, compensating “Facebook  
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26 <sup>1</sup> Consumer Plaintiffs estimate that Facebook’s ill-gotten gains subject to disgorgement exceed  
 27 tens of billions of dollars (or more). Publicly-available documents, including Facebook’s earnings  
 28 reports, indicate, for example, that Facebook earned \$70.7 billion in revenue in 2019 alone.

1 Research App” users at least \$20.00 per month for their data); and publicly-available articles  
2 regarding the rates at which other companies compensate users for their data.

3 As Consumer Plaintiffs’ investigation proceeds, Consumer Plaintiffs will supplement these  
4 first amended initial disclosures, as needed and appropriate, to reflect additional analysis based on  
5 documents and testimony obtained from Facebook and third parties during discovery.

6 Exact measures and computations of Consumer Plaintiffs’ damages will require expert  
7 analysis and testimony. Consumer Plaintiffs intend to provide an expert report on damages pursuant  
8 to Rule 26(a)(2) on or before September 23, 2022 (the date for opening expert reports).

9 **IV. DISCLOSURE OF LIABILITY INSURANCE – Fed. R. Civ. P. 26(a)(1)(A)(iv)**

10 Consumer Plaintiffs are not aware of any insurance that is relevant to this matter.  
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1 DATED: August 24, 2021

Respectfully submitted,

2 By: /s/ Shana E. Scarlett

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